

***Response to Amendment***

The replies filed on both January 24, 2011 and July 5, 2011, are not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicant cannot switch inventions). See 37 CFR 1.145. Any newly submitted claims that are directed to an invention that is independent and distinct from the invention previously claimed will be withdrawn from consideration and not entered. Newly amended claims and/or added claims 1-3, 7 and 10-13 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: **the originally presented claims were directed to a plasma-sterilization indicator, not a method. There were no method claims in the application at the time of Final Rejection.** See Applicant's Remarks, page 6, the 4<sup>th</sup> full paragraph. The indicator would not necessarily need to be used in the presently claimed method, thus providing the requisite rationale for restriction.

As applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-3, 7 and 10-13 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. *See also* 37 CFR 1.111. Applicant should also note that the attempt to incorporate method limitations in newly added indicator claims 14-19 is also of no

patentable consequence, because the recited intended use/method of using will not be given weight. These limitations do not serve to further define the indicator composition.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONIQUE COLE whose telephone number is (571)272-1463. The examiner can normally be reached on MON - THUR (9-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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